

REMARKS

This amendment is being submitted together with an RCE transmittal and the necessary fee. Applicant requests reconsideration of the Final Rejection mailed on May 5, 2004 which listed claims 1-5, 8, 9, 11-15, 17-32, 44-55, 57-62, 64, 65, 67-78 as rejected. Claims 79 to 99 are being added. The added claims are fully supported by the specification and original claims and add no new matter, thus, entry of the added claims is respectfully requested.

Examination of the added claims and reconsideration of the rejected claims is respectfully requested.

Added claim 79, and the claims dependent therefrom, are believed to be patentable over the cited references because the references do not teach a particulate composition for delivery to the pulmonary system, the composition comprising particles comprising an active agent, a saturated phospholipid and a polyvalent cation, wherein the molar ratio of polyvalent cation to phospholipid is at least 0.05 and less than 2, whereby the gel-to-liquid crystal transition temperature of the particles is higher than particles without the polyvalent cation.

Added claim 90, and the claims dependent therefrom, are believed to be patentable over the cited references because the references do not teach a method of making a temperature stable particulate composition for delivery to the pulmonary system, the method comprising (a) forming a feedstock comprising a saturated phospholipid emulsion and an active agent; (b) adding a polyvalent cation to the feedstock in an amount sufficient to provide a molar ratio of polyvalent cation to phospholipid in the feedstock that is at least .05 and less than 2; and (c) drying the polyvalent cation containing feedstock to form porous particles having a gel-to-liquid crystal transition temperature that is higher than a storage temperature of the porous particles by at least about 20° C.

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CONCLUSION


For the foregoing reasons, allowance of the instant application is respectfully requested. Should the Examiner have any questions regarding the above amendments or remarks, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

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